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			2144	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/614,937

Applicant(s)

PHILYAW, JEFFRY JOVAN

Examiner

Tam (Jenny) Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18-33 and 35 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-16, 18-33 and 35 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 02 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/28/2004 has been entered. Claims 1 and 19 are amended. Claims 2-16, 18-33, and 35 are original. Claims 17 and 34 are cancelled. Claims 1-16, 18-33, and 35 are presented for examination.**Priority**

2. This application is a CIP of 09/378,221 (08/19/1999), which is a CIP of 09/151,471 (09/11/1998) and is a CIP of 09/151,530 (09/11/1998) U.S. Patent Number 6,098,106.

3. The effective filing date for the subject matter defined in the pending claims, which has support in parent 09/378,221 in this application, is 08/19/1999. Any new subject matter defined in the claims not previously disclosed in parent 09/378,221, is entitled to the effective filing date of 07/12/2000.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-16, 18-33, and 35 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-26 of copending Application No. 09/659,520. Although the conflicting claims are not identical, they are not patentably distinct from each other because the differences between the two pending applications are minor wording, which do not change the scope of the invention. Refer to the below observation for obvious variations of limitation in claims 1-16, 18-33, and 35 of the instant application and claims 1-26 of the pending application.

6. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Instant Application 09/614,937

Claim 1 (Previously Presented): A method of displaying a web page to a user, comprising the steps of:

providing a portable triggering device having a unique code stored therein;
extracting the unique code from this triggering device with an activation system, the activation system disposed on a network and physically separate from the triggering device;
retrieving location information associated with the unique code from a database, the location information corresponding to a location of the web page on a remote location disposed on the network;
in response to retrieving the location information, automatically connecting the activation system to the remote location; and
presenting the web page corresponding to the location information of the remote location to the user via the activation system.

Claim 2 (Original): The method of Claim 1, wherein the triggering device in the step of providing is a portable wireless passive transponder.

Claim 3 (Original): The method of Claim 2, wherein the passive transponder has the unique code stored therein in a non-volatile memory.

Claim 4 (Original): The method of Claim 1, wherein the unique code in the step of providing is uniquely associated with the web page.

Copending Application 09/659,520

1. **(Currently Amended):** A method of displaying a web page to a user, comprising the steps of:

providing a triggering device having a unique code associated therewith that uniquely identifies the triggering device, the unique code associated with a remote location on a network of the web page and the unique code having no location information contained therein;

transmitting the unique code from the triggering device to an interface system, the interface system disposed on the network at a triggering location;

retrieving location information associated with the unique code from a database, the location information corresponding to the location of the web page at the remote location on the network;

in response to retrieving the location information, connecting the interface system to the remote location; and
presenting the web page corresponding to the location information of the remote location to the user via the interface system.

2. **(Original):** The method of Claim 1, wherein the triggering device in the step of providing is a portable wireless transponder.

3. **(Original):** The method of Claim 2, wherein the transponder has the unique code stored therein in a non-volatile memory.

4. **(Original):** The method of Claim 1, wherein the unique code in the step of providing is uniquely associated with the web page.

5. **(Original):** The method of Claim 1, wherein the interface system in the step of

Claim 19 (Previously Presented): An apparatus for displaying a web page to a user, comprising:
a portable triggering device of a user having a unique code stored therein; said
an activation system disposed on a network for extracting said unique code from said
triggering device, said activation system physically separate from said triggering device;
wherein location information associated with said unique code is retrieved from a
database, said location information corresponding to a location of the web page on a remote location
disposed on said network;

wherein in response to said location information being retrieved from said database, said
activation system is automatically connected to said remote location;
wherein the corresponding web page of said remote location is presented to the user via
said activation system

Claim 20 (Original): The apparatus of Claim 19, wherein said triggering device is a portable
wireless passive transponder.

Claim 21 (Original): The apparatus of Claim 20, wherein said passive transponder has said
unique code stored therein in a non-volatile memory.

Claim 22 (Original): The apparatus of Claim 19, wherein said unique code is uniquely
associated with the web page.

Claim 23 (Original): The apparatus of Claim 19, wherein said triggering device further includes
a unique transponder identification code stored therein, said unique transponder identification code
being exclusively associated with said triggering device.

Claim 24 (Original): The apparatus of Claim 19, wherein said activation system comprises a
transmitter and a receiver each operatively connected to a computer, said transmitter for activating said
triggering device with an activating signal, and said receiver for receiving a triggering signal having said
unique code contained therein.

14. (Currently Amended): An apparatus for displaying a web page to a user, comprising:
a triggering device having a unique code associated therewith that uniquely identifies the
triggering device; and

an interface system disposed on a network and operable to receive said unique code
transmitted from said triggering device;

wherein said unique code is used to retrieve associated location information from a
database, said location information corresponding to a location of the web page on a remote location
disposed on said network the unique code having no location information contained therein.

wherein said interface system connects to said remote location in response to said
location information being retrieved from said database;

wherein the web page corresponding to the said location information of said remote
location is presented to the user via said interface system.

15. (Original): The apparatus of Claim 14, wherein said triggering device is a portable
wireless transponder.

16. (Original): The apparatus of Claim 15, wherein said transponder has said unique code
stored therein in a non-volatile memory.

17. (Original): The apparatus of Claim 14, wherein said unique code is uniquely associated
with the web page.

18. (Original): The apparatus of Claim 14, wherein said interface system comprises a receiver
which is operatively connected to a computer, said receiver for receiving a triggering signal having said
unique code contained therein.

19. (Original): The apparatus of Claim 14, wherein the user manually enables said triggering
device to transmit said unique code.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-12, 16-18, 19-30, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudetz et al. (U.S. Patent Number 5,978,773), hereinafter referred to as Hudetz, in view of Nelson (U.S. Patent Number 6,297,727) and further in view of Russell et al. (U.S. Patent Number 5,905,248), hereinafter referred to as Russell.

9. Regarding claim 1, Hudetz disclosed a method of displaying a web page to a user (Figure 6, column 8 lines 17-20) comprising the steps of retrieving location information associated with the unique code from a database, the location information corresponding to a location of the web page on a remote location disposed on the network (Figure 4, column 9 lines 59-62, column 11 lines 33-60); in response to retrieving the location information, connecting the activation system to the remote location (column 11 lines 28-37); and presenting the web page corresponding to the location information of the remote location to the user via the activation system (Figure 6, column 9 lines 54-62).

10. Hudetz taught the invention substantially as claimed. However, Hudetz did not expressly disclose a method of providing a portable triggering device having a unique code stored therein and extracting the unique code from the triggering device with an activation system, the activation system disposed on a network and physically separates from the triggering device.

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11. Hudetz suggested exploration of art and/or provided a reason to modify the method with the portable triggering device feature (Figure 8, column 6 lines 28-33, column 7 lines 17-28).

12. In an analogous art, Nelson disclosed a method of providing a portable triggering device having a unique code stored therein (Abstract, column 3 lines 10-13, column 5 lines 42-50) and extracting the unique code from the triggering device with an activation system, the activation system disposed on a network and physically separates from the triggering device (column 3 lines 10-13, column 11 lines 9-12).

13. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Hudetz with the teachings of Nelson in order to offer users a more automatic method in obtaining the identification code using the interrogator unit and the triggering device (Nelson, column 6 lines 8-21) since this would allow users to access published locations without having to manually enter the published address through input devices (Hudetz, column 2 lines 53-55).

14. The combination of Hudetz and Nelson taught the invention substantially as claimed. However, the combination of Hudetz and Nelson did not teach in response to retrieving the location information, *automatically* connecting the activation system to the remote location.

15. Hudetz suggested exploration of art and/or provided a reason to modify the method with the automatic connection with the remote location (column 2 lines 52-67).

16. Russell disclosed a method wherein in response to retrieving the location information, *automatically* connecting the activation system to the remote location (Title, Abstract, column 2 lines 46-67, column 3 lines 1-26).

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17. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combined method of Hudetz and Nelson with the teachings of Russell to include the automatic connection feature in order to allow users to access published locations automatically without manual inputs (Hudetz, column 2 lines 52-67).

18. Regarding claim 2, Nelson disclosed a method wherein the triggering device in the step of providing is a portable wireless passive transponder (Figure 1a sign 22, Figure 3 sign 34, column 1 lines 40-47, column 5 lines 42-47, column 7 lines 1-5).

19. Regarding claim 3, Nelson disclosed a method wherein the passive transponder has the unique code stored therein in a non-volatile memory (Abstract, column 3 lines 10-13, column 5 lines 42-47, column 1 lines 56-61, column 12 lines 4-13).

20. Regarding claim 4, Hudetz disclosed a method wherein the unique code in the step of providing is uniquely associated with the web page (Figure 4, column 9 lines 54-62).

21. Regarding claim 5, Nelson disclosed a method wherein the triggering device further includes a unique transponder identification code stored therein, the unique transponder identification code being exclusively associated with that triggering device (column 5 lines 59-66, column 6 lines 9-25).

22. Regarding claim 6, Nelson disclosed a method wherein the step of extracting further includes extracting the unique transponder identification code from the triggering device with the activation system (column 6 lines 9-25, column 5 lines 59-66, lines 39-54).

23. Regarding claim 7, Nelson disclosed a method wherein the step of retrieving location information further comprises the step of matching the unique code and the unique transponder

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identification code with the location information of the database (column 3 lines 1-5, column 5 lines 59-66, column 11 lines 48-55).

24. Regarding claim 8, Nelson disclosed a method wherein the activation system in the step of extracting comprises a transmitter and a receiver each operatively connected to a interrogator unit [computer], the transmitter for activating the triggering device with an activating signal, and the receiver for receiving a triggering signal having the unique code contained therein (Figure 3, column 6 lines 13-23, lines 39-54).

25. Regarding claim 9, Nelson disclosed a method wherein the step of retrieving location information further comprises the step of matching the unique code with the location information of the database (column 9 lines 42-45, column 10 lines 29-36, lines 3-10).

26. Regarding claim 10, Hudetz disclosed a method wherein the database in the step of retrieving is local to the activation system (column 7 lines 51-57).

27. Regarding claim 11, Hudetz disclosed a method wherein the database in the step of retrieving is located at an intermediary location on the network (Figure 1 sign 60, Figure 4, column 7 lines 43-51).

28. Regarding claim 12, Hudetz disclosed a method wherein the step of retrieving location information from the intermediary location further comprises the step of appending to the unique code routing information which defines the location of the intermediary location on the network such that the unique code is transmitted to the intermediary location in accordance with the appended routing information (column 11 lines 28-37).

29. Regarding claim 16, Hudetz disclosed a method wherein the step of connecting is performed using a browser program (Figure 6, column 1 lines 46-52, column 10 lines 55-67).

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30. Regarding claim 18, Hudetz disclosed a method wherein the step of presenting comprises displaying the web page to the user via display operatively connected to the activation system (Figure 6, column 9 lines 54-62).

31. Regarding claims 19-30, 33, and 35, the apparatus corresponds directly to the method of claims 1-12 and 16-18, and thus these claims are rejected using the same rationale.

32. Since all the limitations of the claimed invention were disclosed by the combination of Hudetz, Nelson, and Russell, claims 1-12, 16, 18, 19-30, 33, and 35 are rejected.

33. Claims 13-15 and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudetz et al. (U.S. Patent Number 5,978,773), hereinafter referred to as Hudetz, in view of Nelson (U.S. Patent Number 6,297,727), in view of Russell et al. (U.S. Patent Number 5,905,248), hereinafter referred to as Russell as applied above, and further in view of Wellner (U.S. Patent Number 5,640,193).

34. Regarding claim 13, Hudetz disclosed a method of displaying a web page to a user (Figure 6, column 8 lines 17-20) comprising the steps of retrieving location information associated with the unique code from a database, the location information corresponding to a location of the web page on a remote location disposed on the network (Figure 4, column 9 lines 59-62, column 11 lines 33-60); in response to retrieving the location information, connecting the activation system to the remote location (column 11 lines 28-37); and presenting the web page corresponding to the location information of the remote location to the user via the activation system (Figure 6, column 9 lines 54-62). Nelson disclosed a method of providing a portable triggering device having a unique code stored therein (Abstract, column 3 lines 10-13, column 5

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lines 42-50) and extracting the unique code from the triggering device with an activation system, the activation system disposed on a network and physically separates from the triggering device (column 3 lines 10-13, column 11 lines 9-12). Russell disclosed a method wherein in response to retrieving the location information, *automatically* connecting the activation system to the remote location (Title, Abstract, column 2 lines 46-67, column 3 lines 1-26).

35. The combination of Hudetz, Nelson, and Russell did not disclose a method wherein the activation system in the step of extracting further includes a unique interface identification code associated with the activation system. However, in an analogous art, Wellner disclosed a method wherein the activation system in the step of extracting further includes a unique interface identification code associated with the activation system (Abstract, column 1 lines 36-42, column 7 lines 3-10).

36. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combined teachings of Hudetz and Nelson with the teachings of Richton to include a unique interface identification code in order to allow a user to control the selection of electronic services to be provided to the user by one or more servers over a communication medium (Wellner, column 1 lines 33-36) because this enables the selected electronic service transmitted from the servers to be received by the user's receiver (Wellner, column 1 lines 42-44).

37. Regarding claim 14, Wellner disclosed a method wherein the step of retrieving location information further comprises the step of appending the unique interface identification code to the unique code and transmitting it to the database (column 1 lines 36-42, column 5 lines 46-55).

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38. Regarding claim 15, Wellner disclosed a method wherein the step of retrieving location information further comprises the step of matching the unique code and the unique interface identification code with the location information of the database (column 1 lines 36-42, column 4 lines 46-52). Hudetz also disclosed this matching step at column 8 lines 47-53).

39. Regarding claims 31-32, the apparatus corresponds directly to the method of claims 13-15, and thus these claims are rejected using the same rationale.

40. Since all the limitations of the claimed invention were disclosed by the combination of Hudetz, Nelson, Russell, and Wellner, claims 13-15 and 31-32 are rejected.

41. Claims 1-4, 8, 9, 10-11, 16, 18-22, 24, 26, 28-29, 33, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckley et al. (U.S. Patent Number 5,903,225), hereinafter referred to as Buckley in view of Schmitt et al. (U.S. Patent Number 5,903,225), hereinafter referred to as Schmitt.

42. Regarding claims 1 and 19, Buckley disclosed a method and an apparatus for displaying a web page to a user (Figure 9) comprising: a portable device of a user having a unique code stored therein (Figure 1, column 4 lines 49-61, column 5 lines 49-61); and an activation system disposed on a network for extracting the unique code from said device, said activation system physically separate from said device (column 4 lines 49-61, column 5 lines 49-61, column 8 lines 60-column 9 line 7, column 10 lines 32-39); wherein location information associated with said unique code is retrieved from a database, said location information correspond to a location of the web page on a remote location disposed on said network (column 4 lines 62-column 5 lines 8, column 8 lines 60-column 9 line 7); wherein in response to said location information being

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retrieved from said database, said activation system is automatically connected to said remote location (column 3 lines 31-41, column 8 lines 60-column 9 line 7); wherein the corresponding web page of said remote location is presented to the user via said activation system (Figure 9, column 8 lines 60-column 9 line 7, column 12 lines 5-14).

43. Berkley taught the invention substantially as claimed; however, Berkley did not expressly disclose a portable triggering device of a user having a unique code stored therein and

44. Berkley suggested exploration of art and/or provided a reason to modify the method and apparatus with other features such as wireless and portable triggering device (column 4 lines 56-61, column 5 lines 49-55, column 11 lines 27-37, column 12 lines 52-58)

45. In an analogous art, Schmitt disclosed a portable triggering device [passive transponder] of a user having a unique code stored therein (Abstract, Figure 14, column 2 lines 51-60).

46. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method and apparatus of Berkley with the teachings of Schmitt to include a portable triggering device of a user having a unique code stored therein in order to eliminate the cumbersome scanner because the triggering device would communicate with the activation system automatically when the user is in contact with the activation system (Schmitt, column 12 lines 4-55). In addition, the portable triggering device would prevent the users through the inconvenience of locating and manipulating the reader or scanner system (Schmitt, column 2 line 61-column 3 line 3).

47. Regarding claims 2 and 20, Schmitt disclosed a method and an apparatus wherein the triggering device is a portable wireless passive transponder (Abstract, column 3 lines 7-11, lines 53-57).

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48. Regarding claims 3 and 21, Schmitt disclosed a method and an apparatus wherein said passive transponder has said unique code stored therein in a non-volatile memory (column 3 lines 14-17, lines 22-26, column 12 lines 11-14, lines 25-33).

49. Regarding claims 4 and 22, Buckley disclosed a method and an apparatus wherein said unique code is uniquely associated with the webpage (column 8 lines 60-column 9 lines 7).

50. Regarding claims 8 and 24, Schmitt disclosed a method and an apparatus wherein said activation system comprises a transmitter and a receiver each operatively connected to a computer, said transmitter for activating said triggering device with an activating signal, and said receiver for receiving a triggering signal having said unique code contained therein (Figure 14, column 2 lines 51-60, column 3 lines 7-14).

51. Regarding claims 9 and 26, Buckley disclosed a method and an apparatus wherein said unique code is matched with said location information of said database (column 2 lines 45-52, column 5 lines 3-15, column 7 lines 39-49).

52. Regarding claims 10 and 28, Buckley disclosed a method and an apparatus wherein said database is local to said activation system (Figure 7 sign 90, column 4 line 62-column 5 line 8).

53. Regarding claims 11 and 29, Buckley disclosed an apparatus wherein said database is located at an intermediary location on said network (column 4 line 62-column 5 line 8, column 8 lines 60-column 9 lines 7).

54. Regarding claims 16 and 33, Buckley disclosed a method and an apparatus wherein said activation is connected to said remote location using a browser program (Figures 4, 5, 9, column 11 lines 18-27, column 12 lines 5-14).

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55. Regarding claims 18 and 35, Buckley disclosed a method and an apparatus wherein the webpage is presented to the user via a video display operatively connected to said activation system (Figures 4, 5, 9, column 11 lines 18-27).

56. Since all the limitations of the claimed invention were disclosed by the combination of Berkley and Schmitt, claims 1-4, 8, 9, 10-11, 16, 18-22, 24, 26, 28-29, 33, and 35 are rejected.

Response to Arguments

57. Applicants' arguments in Amendment, filed 12/06/04 with respect to the pending claims 1-16, 18-33, and 35 have been considered but are not persuasive.

58. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

59. In response to applicant's argument that Nelson is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Hudetz disclosed a system and method for using identification codes found on ordinary articles of commerce to access remote computers on a network by scanning the identification code found on an article of commerce that has been associated with an Internet network address. This information is then used to access the desired resource. Nelson disclosed a wireless passive transponder having a stored identification code that is associating with a code recipient wherein the transponder code can be remotely

interrogated to obtain the identification code and the identification code can be used to access the desired record. For this reason alone, although there exist other reasons, it should be obvious then that that the Nelson reference is an analogous art to the Hudetz reference.

60. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner had established a proper combination of Hudetz, Nelson, and Russell by providing detailed reasons for exploration of art, suggestion or motivation to combine, and reasons for combining. Please refer to the above rejection for details.

61. In response to applicant's argument that "the transponder system [it] operates different than a scanner in that the code is permanently associated therewith, as opposed to a scanning device which scans an external code, wherein the scanner has no unique code stored therein" and "Hudetz clearly is a system that teaches a scanner that must have the ability to scan one or a plurality of codes, so a unique code stored in the scanner for locating a web would make the Hudetz system valueless", the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

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62. As the rejection reads, Examiner asserts that the combination of these teachings render the claimed invention obvious.

63. Applicant's arguments filed 12/06/04 regarding pending claims 19-22, 24, 26, 28-29, and 33-35 have been fully considered but they are not persuasive. However, in view of a newly found prior art (Buckley et al. U.S. Patent Number 6,446,871), a new rejection is rendered necessary.

Please refer to the above rejection for complete details.

64. In response to applicant's argument that "if the Schmitt device were used, it could only connect to a single web page", the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). As Buckley disclosed "The news agency server implements a common gateway interface (CGI) process to dynamically map between a filtered bar code and a corresponding Uniform Resource Locator (URL). The URL refers to specific articles in content databases. Multiple URLs can be associated with a single bar code". Thus, even if the Schmitt device could only stored one unique code, it would still be able to connect to multiple web pages.

65. As the rejection reads, Examiner asserts that the combination of these teachings render the claimed invention obvious.

Conclusion

66. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to the enclosed PTO-892 for details.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam (Jenny) Phan whose telephone number is (571) 272-3930. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on (571) 272-3925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William Cuchlinski

SPE

Art Unit 2144

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February 2, 2005